

# REGISTER



## South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., July 16, 2012

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Game, Fish and Parks:***

(July 12, 2012) intends to amend Hunting Requirements and Prohibited Methods rules to create accompaniment allowances for big game hunters and place the responsibility for adherence to the rule on the accompanying person who is not licensed to hunt big game, and allow for use of smokeless powder and peep sights and other optics that do not employ magnification during seasons restricted to Muzzleloading rifles; amend Waterfowl Hunting Seasons rules to increase the daily bag limit for redheads; increase the Canada goose daily bag limit and possession limit, and make corrections to the boundary descriptions for Units 1 and 2; amend a Bait rule to add the East Vermillion River, West Vermillion River, and Firesteel Creek below Lake Mitchell to the list of waters that are closed to the commercial and noncommercial taking of bait; and adopt Wildlife Rehabilitation rules to initiate a formalized program for the temporary care, rehabilitation, and release of certain resident wildlife species. The general authority for these rules, as cited by the department, is SDCL §§ 41-2-18 and 41-11-5.

A public hearing will be held at the Milbank Community Center, 1001 East 4<sup>th</sup> Avenue, Milbank, South Dakota, on August 2, 2012, at 2:00 p.m. (CDT). Copies of the proposed rules may be obtained from and written comments sent to Jeffrey R. Vonk, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received by and in the office of the Secretary

of the Department of Game, Fish and Parks on or before 12:00 p.m. three (3) days prior to the date of the hearing to be included within the record of the public hearing and to be considered by the Commission. Comments may also be sent by email to [Wildinfo@state.sd.us](mailto:Wildinfo@state.sd.us). All written and email comments must include the commenter's name and address. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3387 before the hearing.

**FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF GAME, FISH AND PARKS:** 141:06:16:07 and 141:06:16:09.

History-Notice: 39 SDR 1, July 2, 2012

Hearing: July 9, 2012

Filed: July 9, 2012

Effective: July 9, 2012

**DEPARTMENT OF HEALTH: HEALTH SYSTEMS DEVELOPMENT AND REGULATION:** 44:64:01 to 44:64:04, inclusive; and 44:71:01 to 44:71:04, inclusive.

History-Notice: 38 SDR 199, May 14, 2012

Hearing: June 11, 2012

Filed: July 10, 2012

Effective: July 30, 2012

**OFFICE OF ATTORNEY GENERAL:**  
**24/7 SOBRIETY PROGRAM:** 2:06:02:02.02 and 2:06:03:05.

History-Notice: 38 SDR 204, May 21, 2012

Hearing: June 15, 2012

Filed: July 10, 2012  
Effective: July 30, 2012

**DEPARTMENT OF AGRICULTURE:  
STATE BRAND BOARD:** 12:10:01:15 and  
12:10:02:05.

History-Notice: 38 SDR 204, May 21, 2012  
Hearing: June 27, 2012  
Filed: July 12, 2012  
Effective: August 1, 2012

**DEPARTMENT OF GAME, FISH AND  
PARKS:** 41:03:01:16; 41:06:14:02,  
41:06:14:02.01; 41:06:16:07; 41:06:19:02,  
41:06:19:04; 41:06:20:01.01, 41:06:20:02;  
41:06:22:01.01, 41:06:22:02; 41:06:24:01;  
41:06:44:04; 41:06:45:02; 41:08:01:04.01,  
41:08:01:08.01; 41:08:02:01, and 41:08:02:14

History-Notice: 38 SDR 203, May 21, 2012  
Hearing: June 7, 2012  
Filed: July 12, 2012  
Effective: August 1, 2012

**DEPARTMENT OF GAME, FISH AND  
PARKS:** 41:03:01:06, 41:03:01:10,  
41:03:01:22, 41:03:01:28; 41:03:03:06.01;  
41:03:05:05; 41:04:05:07; 41:06:01:10,  
41:06:01:14, 41:06:01:15; 41:06:02:01,  
41:06:02:01.05, 41:06:02:02, 41:06:02:04,  
41:06:02:05; 41:06:04:18, 41:06:04:19;  
41:06:07:07; 41:06:13:02 to 41:06:13:04,  
inclusive; 41:06:14:02 to 41:06:14:05, inclusive;  
41:06:15:03; 41:06:19:02, 41:06:19:04,  
41:06:19:07; 41:06:20:02 to 41:06:20:04,  
inclusive; 41:06:21:03, 41:06:21:04;  
41:06:22:03, 41:06:22:06; 41:06:23:02 to  
41:06:23:05, inclusive; 41:06:24:03;  
41:06:25:01, 41:06:25:03; 41:06:26:03,  
41:06:26:04; 41:06:27:03, 41:06:27:05;  
41:06:28:03, 41:06:28:05; 41:06:29:04;  
41:06:30:01 to 41:06:30:04, inclusive;  
41:06:36:02 to 41:06:36:04, inclusive;  
41:06:38:01 to 41:06:38:03, inclusive;  
41:06:41:03; 41:06:43:03, 41:06:43:04;  
41:06:44:03; 41:06:45:03, 41:06:45:04;  
41:06:46:08; 41:06:47:03, 41:06:47:04;

41:06:48:03, 41:06:48:04; 41:06:59:03,  
41:06:59:04; 41:06:61:05; 41:08:01:02 to  
41:08:01:04, inclusive, 41:08:01:08.02,  
41:08:01:08.04; 41:08:04:01, 41:08:04:02;  
41:09:04:08 to 41:09:04:10, inclusive,  
41:09:04:13; 41:09:07:01 to 41:09:07:03.01,  
inclusive; and 41:09:14:03.

History-Notice: 38 SDR 203, May 21, 2012  
Hearing: June 7, 2012  
Filed: July 12, 2012  
Effective: August 1, 2012

**DEPARTMENT OF LABOR AND  
REGULATION: DIVISION OF  
INSURANCE:** 20:06:13:32, Appendices A, B,  
C, D, and E; and 20:06:21:28.01.

History-Notice: 38 SDR 219, June 11, 2012  
Hearing: June 21, 2012  
Filed: July 12, 2012  
Effective: August 1, 2012

#### **Executive Appointments:**

**Kay S. Jorgensen**, Spearfish, was reappointed on July 5, 2012, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2015.

**Rick W. Knobe**, Sioux Falls, was reappointed on July 5, 2012, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2015.

**Julie A. Mathiesen**, Sturgis, was reappointed on July 5, 2012, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2015.

**Dave Mertens**, Kennebec, was reappointed on July 5, 2012, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2015.

**Wallace G. Myers**, Sioux Falls, was reappointed on July 5, 2012, to the **South Dakota Workforce Development Council**, effective immediately and shall continue until June 30, 2015.

**Mark S. Shlanta**, Sioux Falls, was reappointed on July 5, 2012, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2015.

**Thomas S. Bohnet**, Yankton, was reappointed on July 6, 2012, to the **South Dakota Workforce Development Council**, effective July 23, 2012, and shall continue until June 30, 2015.

**Doyle D. Estes**, Hill City, was appointed on July 6, 2012, to the **South Dakota Board of Directors for Educational Telecommunications**, to replace Larry Miller, effective July 1, 2012, and shall continue until June 30, 2015.

**Lloyd A. Schipper**, Pierre, was reappointed on July 6, 2012, to the **Housing Development Authority**, effective immediately and shall continue until June 30, 2017.

**David C. Westbrook**, Madison, was appointed on July 6, 2012, to the **South Dakota Workforce Development Council**, to replace Helen Wegner, effective July 1, 2012, and shall continue until June 30, 2015.

### **Executive Orders:**

The Governor has signed **Executive Order 2012-06** dated June 22, 2012. This order determines that a state of emergency exists due to extremely low inventories and outages of

petroleum products. Due to the emergency, the transportation and delivery of diesel, ethanol, gasoline, and propane into and within South Dakota are exempt from 49 CFR Part 395, otherwise known as the federal hours of service regulations. The order will expire no later than midnight, July 9, 2012.

The Governor has signed **Executive Order 2012-07** dated June 27, 2012. The Order declares a state of emergency to exist in Pennington County in the state of South Dakota due to the lack of moisture, excessive heat, and low humidity and the spreading of the fire which started near Dakota Point Recreation area near Sheridan Lake.

The Governor has signed **Executive Order 2012-08** dated July 9, 2012. This order determines that a state of emergency exists due to extremely low inventories and outages of petroleum products. Due to the emergency, the transportation and delivery of diesel, ethanol, gasoline, and propane into and within South Dakota are exempt from 49 CFR Part 395, otherwise known as the federal hours of service regulations. The order will expire no later than midnight, July 23, 2012.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

### **REMINDER OF HEARINGS SCHEDULED**

7-20-2012	Public Safety: Office of Weights and Measures	Adopt rules to permit the sale of 85 Octane gasoline throughout South Dakota but require cautionary labeling, to specify the required
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		retail dispenser labeling requirements, to require documentation for product quantity, grade and rating, and to define the duties of refiners, importers, producers, distributors and retailers consistent with the Code of Federal Regulations Title 16, Parts 306.5 through 306.12, inclusive; 38 SDR 224.
7-25-2012	Education: State Library Board	Amend rules to establish a program of full and affiliate depository libraries for state publications, and to specify how state agencies are to supply the State Library with digital and/or non-digital copies of their publications for inclusion in the program; 39 SDR 5.
8-2-2012	Game, Fish and Parks	Amend Hunting Requirements and Prohibited Methods rules to create accompaniment allowances for big game hunters and place the responsibility for adherence to the rule on the accompanying person who is not licensed to hunt big game, and allow for use of smokeless powder and peep sights and other optics that do not employ magnification during seasons restricted to Muzzleloading rifles; amend Waterfowl Hunting Seasons rules to increase the daily bag limit for redheads; increase the Canada goose daily bag limit and possession limit, and make corrections to the boundary descriptions for Units 1 and 2; amend a Bait rule to add the East Vermillion River, West Vermillion River, and Firesteel Creek below Lake Mitchell to the list of waters that are closed to the commercial and noncommercial taking of bait; and adopt Wildlife Rehabilitation rules to initiate a formalized program for the temporary care, rehabilitation, and release of certain resident wildlife species; 39 SDR 9.
9-7-2012	Tourism: State Historical Society	Amend rules to set standard fees for services provided by the State Historical Society; revise the State Historic Preservation Office's review and handling of property tax moratorium applications; and alter when recipients of Deadwood Fund preservation grants from the State Historic Preservation Office must file the required preservation covenant for the grant; 38 SDR 199.

**RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, August 14, 2012. The committee chair has set the following tentative meeting schedule for the 2012 interim: September 18, November 13, and December 18.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

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